

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEREMY K. ROSS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:23-CV-00152-SRC
)	
PATTI LEHMAN, et al.,)	
)	
Defendants.)	

Memorandum and Order

On February 16, 2023, the Court issued an Order directing pro-se, in-forma-pauperis plaintiff Jeremy Ross to show cause why the Court should not dismiss this action for lack of subject matter jurisdiction. Doc. 4. Ross filed a response to the Order to show cause on February 22, 2023. Doc. 7. On April 3, 2023, while the Court’s show-cause order was pending in this case, Ross filed a nearly identical complaint, again in the Eastern District of Missouri—the only difference being the amount of money Ross requested in damages. *See Ross v. Lehman*, 4:23-cv-00419-JMB, Doc. 1. (E.D. Mo. Apr. 3, 2023).

Even though the two complaints were nearly identical, Ross affirmed in the Original Filing Form attached to the second complaint that “NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.” 4:23-cv-00419-JMB, Doc. 1-2. Accordingly, the Clerk of Court assigned Ross’s second complaint a new case number. 4:23-cv-00419-JMB, Doc. 3. Further, in response to an order to show cause why that case should not be dismissed for lack of subject-matter jurisdiction, Ross filed the same documents he previously filed in this case. *Compare* 4:23-cv-00419-JMB, Doc. 5,

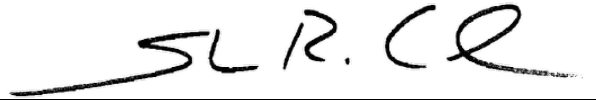
with 4:23-cv-00152-SRC, Doc. 7. After considering Ross's response, the Honorable Henry E. Autrey, United States District Judge, dismissed Ross's complaint without prejudice for lack of subject-matter jurisdiction on April 18, 2023. 4:23-cv-00419-JMB, Docs. 6, 7.

Under 28 U.S.C. § 1915(e)(2), the Court is required to dismiss at any time a complaint filed in forma pauperis if the Court determines that it is frivolous, malicious, or fails to state a claim upon which relief can be granted. When reviewing a pro se complaint under 28 U.S.C. § 1915(e)(2), the Court must give it the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). However, it is well-established that the Court may dismiss a duplicative complaint under § 1915. *See Van Meter v. Morgan*, 518 F.2d 366, 367-68 (8th Cir. 1975) (per curiam) (affirming district court's dismissal of complaint as frivolous under § 1915 where one of the plaintiff's three prior complaints was against the same defendant and appeared to be based on the same conduct as in dismissed complaint); *see also Aziz v. Burrows*, 976 F.2d 1158, 1159 (8th Cir. 1992) (affirming § 1915 dismissal on ground that "district courts may dismiss a duplicative complaint raising issues directly related to issues in another pending action brought by the same party"). *Cf. Patel v. Prince*, 276 F. App'x 531, 532 (8th Cir. 2008) (holding that district court abused its discretion by dismissing a complaint under § 1915 as duplicative where the complaint differed significantly from the complaints in the plaintiff's other actions).

After carefully comparing Ross's two complaints, the Court finds that the Complaint in this case is duplicative of the complaint in 4:23-cv-00419-JMB that Judge Autrey dismissed on April 18, 2023 for lack of subject-matter jurisdiction. *See Patel*, 276 F. App'x at 532 (general rule for determining duplicative litigation is whether parties, issues, and available relief do not significantly differ between two actions (citing *I.A. Durbin, Inc. v. Jefferson Nat. Bank*, 793 F.2d 1541, 1551 (11th Cir. 1986))). Accordingly, the Court dismisses this case without prejudice

pursuant to 28 U.S.C. § 1915(e)(2). *See Aziz*, 976 F.2d at 1158–59. A separate Order of Dismissal accompanies this Memorandum and Order. An appeal from this dismissal would not be taken in good faith.

So Ordered this 27th day of April 2023.

A handwritten signature in black ink, appearing to read "SLR. CL", is written over a horizontal line.

STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE